

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA	)	
	)	CRIMINAL NO.
v.	)	
	)	
DONALD W. KEYSER	)	

STATEMENT OF FACTS

The defendant Donald W. Keyser and the United States agree that the following facts are true and correct and would be proven by the United States beyond a reasonable doubt were this matter to go to trial:

1. DONALD WILLIS KEYSER was commissioned a Foreign Service Officer in the U.S. Department of State in 1972. Subsequently, he served at Department of State offices in Washington, D.C., and at U.S. embassies abroad in positions concerning U.S. foreign policy with respect to East Asia and the Pacific, including positions as a China analyst for the Bureau of Intelligence and Research (1973-1975); Chief of the Political/External Affairs Unit at the U.S. embassy in Tokyo, Japan (1985-1988); Minister-Counselor at the U.S. embassy in Beijing, China (1989-1992); and Director, Office of Chinese and Mongolian Affairs, Bureau of East Asian and Pacific Affairs (1993-1995).

2. In 1999 and 2000, KEYSER served as Principal Deputy Assistant Secretary of State, Bureau of Intelligence and Research (INR), at the Department of State in Washington, D.C. In July 2001, KEYSER was appointed to the position of Deputy Assistant Secretary of State for

East Asian and Pacific Affairs. In February 2003, KEYSER was promoted to the position of Principal Deputy Assistant Secretary for East Asian and Pacific Affairs. As Deputy Assistant Secretary of State and subsequently Principal Deputy Assistant Secretary, Keyser had extensive involvement in, and responsibility for, the foreign policy of the United States with respect to East Asia and the Pacific.

3. As Principal Deputy Assistant Secretary of State for Intelligence and Research, Deputy Assistant Secretary of State for East Asian and Pacific Affairs, and Principal Deputy Assistant Secretary of State for East Asian and Pacific Affairs, KEYSER held a Top Secret security clearance and had access to, and regularly reviewed, classified information as part of his duties at the Department of State, including Sensitive Compartmented Information (“SCI”). Since at least 1992, when KEYSER returned to the United States from postings abroad, KEYSER held a position of public trust.

4. Pursuant to Executive Order 12958, as amended by Executive Order 13292, national security information is classified as “Confidential” “Secret,” and “Top Secret.” The designation “Confidential” applies to information, the unauthorized disclosure of which reasonably could be expected to cause damage to the national security. The designation “Secret” applies to information, the unauthorized disclosure of which reasonably could be expected to cause serious damage to the national security. The designation “Top Secret” applies to information, the unauthorized disclosure of which reasonably could be expected to cause exceptionally grave damage to the national security. Access to classified information at any level may be further restricted through compartmentation in SCI categories. Dissemination of classified information at any level may also be restricted through caveats such as NOFORN (not releasable to foreign

nationals).

5. “Damage to the national security” is defined in Executive Order 13292 as “harm to the national defense or foreign relations of the United States from the unauthorized disclosure of information, taking into consideration such aspects of the information as the sensitivity, value, utility, and provenance of that information.”

6. KEYSER held TOP SECRET clearances continuously from the time he joined the Department of State in 1972 until on or about September 14, 2004, and was indoctrinated for access to a variety of SCI programs. On numerous occasions, KEYSER signed nondisclosure forms acknowledging his responsibilities regarding classified information. Among the nondisclosure forms signed by KEYSER were the following:

a. On February 2, 1973, KEYSER signed a nondisclosure agreement in which he acknowledged that:

“In being granted access to . . . Intelligence, I have been plainly informed and and cautioned that the preservation of . . . Intelligence sources is of paramount importance to the national security and interest of the United States.

b. On August 30, 1985, and again on April 10, 1993, and July 12, 1999,

KEYSER signed a Sensitive Compartmented Information Nondisclosure Agreement in which he acknowledged that:

. . . 2. I hereby acknowledge that I have received a security indoctrination concerning the nature and protection of SCI, including the procedures to be followed in ascertaining whether other persons to whom I contemplate disclosing this information or material have been approved for access to it, and I understand these procedures.

. . . 3. I have been advised that the unauthorized disclosure, unauthorized retention, or negligent handling of SCI by me could cause irreparable injury to the United States or be used to advantage by a foreign nation. I hereby agree that I

will never divulge anything marked as SCI or that I know to be SCI to anyone who is not authorized to receive it without prior written authorization from the United States Government department or agency . . . that last authorized my access to SCI.

. . . 6. I have been advised that any breach of this Agreement may result in the termination of my access to SCI and removal from a position of special confidence and trust requiring such access, as well as the termination of my employment or other relationships with any Department or Agency that provides me with access to SCI. In addition, I have been advised that any unauthorized disclosure of SCI by me may constitute violations of United States criminal laws, including the provisions of Sections 793, 794, 798, and 952, Title 18, United States Code . . .

. . . 8. I understand that all information to which I may obtain access by signing this Agreement is now and will remain the property of the United States Government unless and until otherwise determined by an appropriate official or final ruling of a court of law. Subject to such determination, I do not now, nor will I ever, possess any right, interest, title, or claim whatever to such information. I agree that I shall return all materials that may have come into my possession or for which I am responsible because of such access, upon demand by an authorized representative of the United States Government or upon the conclusion of my employment or other relationship with the United States Government entity providing me access to such materials. If I do not return such materials upon request, I understand that this may be a violation of Section 793, Title 18, United States Code.

7. From 1992 until the present, KEYSER resided in Fairfax, Virginia.

8. At no time during his employment with the Department of State was KEYSER authorized to store classified documents in his residence, whether the documents be hard-copy, or contained on his laptop computer, or on floppy disks.

9. The National Intelligence Bureau (NSB) was the foreign intelligence agency of the government of Taiwan.

10. Isabelle Cheng was a female Taiwanese national employed by the NSB as an intelligence officer. Isabelle Cheng also was known as Nian-Tzu Cheng.

11. The Taipei Economic Cultural and Representative Office (TECRO) was an entity that represented the authorities on Taiwan in the United States. TECRO maintained an office at 4201 Wisconsin Avenue, N.W., in Washington, D.C. The NSB maintained offices within the TECRO office at 4201 Wisconsin Avenue, N.W., in Washington, D.C.

12. The American Institute of Taiwan (AIT) was an entity that facilitated relationships between the United States and Taiwan. AIT maintained offices in Taipei, Taiwan, and in Arlington, Virginia.

13. In or about May 2001, Isabelle Cheng traveled to Washington, D.C., from Taiwan and began her employment as an intelligence officer for the NSB.

14. In 2002, KEYSER met Isabelle Cheng. From 2002 to September 2004, KEYSER had an undisclosed personal relationship with Isabelle Cheng, in which he regularly communicated with her by telephone and e-mail, met with her privately on numerous occasions, and occasionally traveled with her. These contacts were not reported by KEYSER to the Department of State.

15. On August 30, 2003, Isabelle Cheng flew from Washington Dulles Airport to Taipei, via Los Angeles.

16. On August 31, 2003, KEYSER traveled from the United States to the People's Republic of China on official Department of State business, with plans to continue on to Tokyo, Japan, on official business.

17. On September 1, 2003, KEYSER sent an e-mail to his superior, Assistant Secretary of State James Kelly, in which KEYSER said he planned to take annual leave while in Japan, because "virtually everyone I would have wanted to see [in Japan] has dispersed to the four

corners of the globe . . . .”

18. On September 2, 2003, KEYSER traveled from the PRC to Tokyo, Japan, on official Department of State business.

19. On September 3, 2003, KEYSER traveled from Japan to Taipei, Taiwan.

20. Between September 3, 2003, and September 6, 2003, while in Taipei, KEYSER met with Isabelle Cheng.

21. On September 6, 2003, KEYSER traveled from Taipei, Taiwan, to Japan, and on September 7, 2003, KEYSER traveled from Japan to the United States.

22. On September 7, 2003, upon his return to the United States from overseas, KEYSER submitted a Customs Declaration form at Dulles International Airport in the Eastern District of Virginia. In response to an item on the form requiring the traveler to identify the “[c]ountries visited on this trip prior to U.S. arrival,” KEYSER wrote only “China, Japan,” omitting Taiwan, a “material” omission for purposes of Title 18, United States Code, Section 1001(a).

23. On September 8, 2003, Isabelle Cheng flew from Taipei to Dulles International Airport.

24. Following his return to the United States, KEYSER did not disclose his trip to Taiwan to anyone at the Department of State, to anyone at AIT, or to any members of his family.

25. Between in or about 1992 and on or about September 4, 2004, KEYSER removed and transported to his residence in Fairfax Station, Virginia, classified documents that he had obtained and had custody of in the course of his official duties at the Department of State, and that had been filed and deposited with the Department of State, a public office.

26. For at least one year prior to September 4, 2004, KEYSER knew that he had

classified documents and materials in his home, yet he did not return any of the classified documents or materials to the U.S. Department of State or to any other U.S. Government department or agency.

27. On May 1, 2004, KEYSER electronically transmitted a completed SF-86 form to the Office of Security of the Department of State, located in Arlington, Virginia, in the Eastern District of Virginia. Section 18 of form SF-86 directed KEYSER to “[l]ist foreign countries you have visited, except on travel under official Government orders, working back 7 years.” KEYSER also was instructed on the form to “indicate the purpose” of each visit to a foreign country. In response, KEYSER reported personal travel he had taken to France in April 2000, and Ireland in May 2003, but he did not disclose his travel to Taiwan in September 2003.

28. On May 3, 2004, KEYSER faxed a signed signature form to the Office of Security of the Department of State, located in Arlington, Virginia, in the Eastern District of Virginia, on which he certified that his statements on the SF-86 form were “true, complete, and correct to the best of my knowledge and belief and are made in good faith.” KEYSER also certified that he “understands that a knowing and willful false statement on [the SF-86 form] can be punished by fine or imprisonment or both” pursuant to Title 18, United States Code, Section 1001.

29. On August 9, 2004, an investigator of the Bureau of Diplomatic Security of the U.S. Department of State interviewed KEYSER at the Foreign Service Institute in Arlington, Virginia, in the Eastern District of Virginia, as part of KEYSER’s security reinvestigation. KEYSER was advised at the outset of the interview about the importance of candor and specifically was told that it is a crime under Title 18, United States Code, Section 1001, to knowingly falsify or conceal material facts related to the security investigation.

30. During the security reinvestigation interview, KEYSER provided the following materially false statements and representations:

a) that he did not have any close ties of affection or obligation to a citizen or resident of a foreign country.

b) that he had not engaged in conduct which may make him vulnerable to coercion, exploitation, or pressure from a foreign government.

c) that he had not had any foreign travel other than that listed on his security forms.

d) that he had not deliberately provided false or misleading information concerning relevant and material matters to an investigator, security official, or other official representative in connection with a personnel security or trustworthiness determination.

31. KEYSER did not disclose the above-described meetings with Isabelle Cheng to his immediate supervisor, Assistant Secretary of State James Kelly, to any officials at AIT, or to other officials in the East Asian and Pacific Affairs Bureau who were responsible for U.S. foreign policy pertaining to Taiwan.

32. On or about September 4, 2004, KEYSER was in unauthorized possession of classified U.S. Government documents at his residence in Fairfax Station, Virginia, in the Eastern District of Virginia. More than 25 of the documents found in KEYSER's home were classified at the Top Secret level, and included several documents that contained SCI material. Numerous additional U.S. Government documents classified at the Secret and Confidential level were found in KEYSER's home and on his SONY VAIO laptop computer and on floppy disks located in his residence.



33. DONALD W. KEYSER acted knowingly, unlawfully, purposefully and with the specific intent to violate the law and not by accident, inadvertence, mistake, or other innocent reason.

PAUL J. McNULTY  
UNITED STATES ATTORNEY

By:

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Patricia M. Haynes  
David H. Laufman  
Assistant United States Attorneys

DEFENDANT’S ACKNOWLEDGMENT: I hereby acknowledge that I have carefully read the above Statement of Facts, and that the Statement of Facts is true and accurate. I do not wish to make any changes to the Statement of Facts. I further acknowledge that I committed the acts described in the Statement of Facts willfully, purposefully, and intentionally, and not by mistake, inadvertence or accident.

\_\_\_\_\_  
Date \_\_\_\_\_ Donald W. Keyser

DEFENSE ATTORNEY'S ACKNOWLEDGMENT: We have read and discussed the Statement of Facts with our client, Donald W. Keyser. It is our opinion that he understands the Statement of Facts, and agrees that its contents are true and accurate.

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Date

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